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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,085	07/21/2000	Andreas Kruger	042933/300242	4806

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EXAMINER	
MILLER, BRANDON J	
ART UNIT	**PAPER NUMBER**
2617	

MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/621,085	KRUGER ET AL.	
	Examiner	Art Unit	
	Brandon J. Miller	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *17 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 July 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/17/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 9-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al. (US 6,188,949 B1) in view of Lemelson et al. (US 6,553,130 B1).

Regarding claim 9 Hahn teaches an operable device to be used in a vehicle, wherein at least sensor is present in the vehicle (see FIG. 1), the device comprising an operating panel through which a user can cause at least one of producing existing operating states or changing existing operating states of the operable device (see col. 5, lines 8-10 & 21-25 and col. 6, lines 10-16). Hahn teaches a decision unit, coupled to the operating panel, which receives data from the at least one sensor for determining vehicle specific conditions over a time period of vehicle

operation by evaluating the received sensor data (see col. 5, lines 35-45 and col. 6, lines 16-25 & 40-43). Hahn teaches converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle (see col. 7, lines 55-58). Hahn does not specifically teach blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous. Hahn does teach controlling existing operating states according to an actual driving situation on the basis of a driving profile (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous (see col. 2, lines 50-53 and col. 3, lines 8-13). It would have obvious to one of ordinary skill in the art at the time the invention was made to make Hahn adapt to include blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous because the poor traction due to bad weather and speed of upcoming traffic in the driving profile of Hahn (see col. 6, lines 42-46) are factors when determining dangerous and non-dangerous driving conditions and it would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 10 Hahn teaches an operable device to be used in a vehicle, wherein at least one sensor is present in the vehicle (see FIG. 1), the device comprising an operating panel through which a user cause at least one of producing existing operating states or changing existing operating states of the operable device (see col. 5, lines 8-10 & 21-25 and col. 6, lines 10-16). Hahn teaches a decision unit, coupled to the operating panel, which receives driving speed data from the at least one sensor for determining vehicle specific conditions by measuring fluctuation of the driving speed of the vehicle over a time period (see col. 5, lines 35-45 and col.

6, lines 16-25 & 40-43). Hahn does not specifically teach blocking or releasing the existing operating states of an operable device based on the measured fluctuation. Hahn does teach controlling existing operating states according to an actual driving situation on the basis of measuring fluctuations of the driving speed of the vehicle (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to vehicle velocity over a time period (see col. 2, lines 50-53 and col. 3, lines 8-13). It would have obvious to one of ordinary skill in the art at the time the invention was made to make Hahn adapt to include blocking or releasing the existing operating states of an operable device based on the measured fluctuation because this would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 11 Hahn teaches wherein the operable device is operable to perform at least one of receiving and transmitting data (see col. 5, lines 20-25 and FIG. 1).

Regarding claim 12 Hahn and Lemelson teach a device as recited in claim 11 and is rejected given the same reasoning as above.

Regarding claim 13 Hahn teaches equipment which collects information on at least one of conditions are states under which or by which the operable device is currently being operated, and transmits the information as data to a decision unit (see col.5, lines 35-45 and col. 6, lines 16-25).

Regarding claim 14 Hahn and Lemelson teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 15 Hahn and Lemelson teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 16 Hahn and Lemelson teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 17 Hahn and Lemelson teach a device as recited in claim 9 except for an operable device comprising a receiving unit, wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating state of an operable device. Hahn does teach data that is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control operating states of an operable device (see col. 6, lines 40-50 & 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous (see col. 2, lines 50-53 and col. 3, lines 8-13). It would have obvious to one of ordinary skill in the art at the time the invention was made to make the invention adapt to include an operable device comprising a receiving unit, wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating state of an operable device because it would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 18 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 19 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 20 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 21 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 22 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 23 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 24 Hahn and Lemelson teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 25 Hahn teaches a method for controlling an operable device, which is used in a vehicle (see col. 5, lines 9-13). Hahn teaches controlling an operating panel by a user to cause at least one of producing existing operating states or changing existing operating states of the operable device (see col. 5, lines 8-10 and col. 6, lines 10-16). Hahn teaches receiving data from at least one sensor in a decision unit which is coupled to an operating panel; determining vehicle specific conditions over a time period of vehicle operation by evaluating the sensor data (see col. 5, lines 35-45 and col. 6, lines 16-25 & 40-43). Hahn teaches converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle (see col. 7, lines 55-58). Hahn does not specifically teach blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous. Hahn does teach controlling existing operating states according to an actual driving situation on the basis of a driving profile (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous (see col.

2, lines 50-53 and col. 3, lines 8-13). It would have obvious to one of ordinary skill in the art at the time the invention was made to make Hahn adapt to include blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous because the poor traction due to bad weather and speed of upcoming traffic in the driving profile of Hahn (see col. 6, lines 42-46) are factors when determining dangerous and non-dangerous driving conditions and it would allow for improved control of vehicle operation during adverse driving conditions.

Regarding claim 26 Hahn teaches a decision unit coupled to an operable device, which is used in a vehicle, wherein at least one sensor is present in the vehicle (see col. 5, lines 8-10 and FIG. 1). Hahn teaches a decision unit comprising an input for receiving data from the at least one sensor (see col. 6, lines 17-20). Hahn teaches a decision unit determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received sensor data (see col. 5, lines 35-45 and col. 6, lines 16-25 & 40-43). Hahn teaches converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle (see col. 7, lines 55-58). Hahn teaches an output for outputting a signal, which is used for changing the operation states of the operable device connected to the decision unit (see col. 6, lines 60-67 and col. 7, lines 1-5). Hahn does not specifically teach blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous. Hahn does teach controlling existing operating states according to an actual driving situation on the basis of a driving profile (see col. 6, lines 60-67 and col. 7, lines 1-5). Lemelson teaches blocking or releasing the existing operating states of an operable device according to whether the actual driving situation is dangerous or non-dangerous (see col. 2, lines

50-53 and col. 3, lines 8-13). It would have obvious to one of ordinary skill in the art at the time the invention was made to make Hahn adapt to include blocking or releasing the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous because the poor traction due to bad weather and speed of upcoming traffic in the driving profile of Hahn (see col. 6, lines 42-46) are factors when determining dangerous and non-dangerous driving conditions and it would allow for improved control of vehicle operation during adverse driving conditions.

Response to Arguments

3. Applicant's arguments filed 10/17/2007 have been fully considered but they are not persuasive.

Regarding claims 9-26 the combination of Hahn and Lemelson teach a device as claimed. Recording velocity data during one or more driving routes and sending the recorded data inherently includes sensing an actual driving condition because velocity is an actual driving condition and recording it requires that some device or "sensor" sense it. Furthermore, Hahn clearly teaches the sensor being in a vehicle (see col. 5, lines 9-10 & col. 6, lines 40-42 and FIG. 1).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Miller whose telephone number is 571-272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 24, 2007

GEORGE ENG
SUPERVISORY PATENT EXAMINER